

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 1514 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

Whether this case involves a substantial question
of law as to the interpretation of the

4 constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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BHAVANBHAI J PARMAR - Petitioner(s)
Versus
ZONAL MANAGER & 4 - Respondent(s)

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Appearance :

MR CB DASTOOR for Petitioner(s) : 1,
NANAVATI ASSOCIATES for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 3 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 15/11/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction and/or order directing the respondents to appoint the petitioner as Full Time

Sweeper and thereby quash and set aside the impugned order/action of the respondents in bypassing the seniority of the present petitioner and appointing respondent No.3.

2. It is the contention on behalf of the petitioner that the petitioner was serving as Part Time Sweeper with the respondent Bank and as per the policy of the respondents, as and when the vacancy arises, such Part Time Sweeper shall be considered for promotion and/or for appointment as Full Time Sweeper on the basis of seniority. It is the contention of the petitioner that in the petition that the respondent No.3 though was appointed on 1-6-1986 and has resumed duty as Part Time Sweeper after the petitioner, he came to be appointed as regular Full Time Sweeper bypassing the seniority of the petitioner and in fact, the seniority list was changed and instead of 1-6-1986, the date of joining of respondent No.3 was mentioned as 1-6-1985 detrimental to the interest of the petitioner and therefore, it is requested to allow the present Special Civil Application.

3. An affidavit-in-reply is filed on behalf of the respondents. It is specifically denied that respondent

No.3 has joined the duty after the petitioner and/or his seniority was changed detrimental to the interest of the petitioner. It is submitted that in fact, the respondent No.3 was appointed and has joined the duty as Part Time Sweeper on 1-6-1985 on consolidated wages and on 1-5-1986, he was given 1/3 scale of wages and therefore, the allegation to change of date in the seniority list as 1-6-1985 instead of 1-6-1986 is baseless and is disputed and denied. No counter to the affidavit-in-reply has been filed. Considering the affidavit-in-reply as well as decision on the representation dated 13th February 1997, it appears that the allegation of the petitioner that petitioner was senior to respondent No.3 has no substance and is factually incorrect. On going through the reply as well as the communication, it appears that the respondent No.3 has joined the bank service on consolidated wages on 1-6-1985 and on 1-5-1986, he was given 1/3 scale of wages. Therefore, the seniority of the respondent No.3 has rightly been shown from 1-6-1985.

4. Under the circumstances, there is no illegality committed by the respondent Bank in appointing respondent No.3 as Full Time Sweeper considering the respondent No.3 as a senior. No further allegations have been made.

5. Under the circumstances, there is no substance in the present Special Civil Application and the same is accordingly dismissed. Rule discharged. No costs.

(M.R.SHAH, J.)

shekhar/-